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FISCAL NOTE

Drafting Number: LLS 18-0718 Date: January 24, 2018
Prime Sponsors: Sen. Kagan Bill Status: Senate SVMA
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Bill Topic: USE OF CRIMINAL RECORDS WITH RESPECT TO HOUSING

- Summary of Fiscal Impact:
- State Revenue (checked)
- State Expenditure (checked)
- State Transfer (unchecked)
- TABOR Refund (unchecked)
- Local Government (checked)
- Statutory Public Entity (checked)

The bill modifies the definition of unfair housing practices, and extends protections to tenants who have certain arrest records or convictions. The bill minimally increases state and local workload, revenue, and expenditures.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under SB 18-057

Table with 4 columns: Category, Sub-category, FY 2018-19, FY 2019-20. Rows include Revenue, Expenditures, and Transfers.

Summary of Legislation

Under current law, it is an unfair housing practice for a property owner to impose a restrictive covenant on the transfer, rental, or lease of housing property based on a protected status such as age, sex, religion, or national origin. A restrictive covenant is a clause in a deed or property lease that limits what the owner of the land or the lease may do with the property.

This bill expands the definition of restrictive covenant to include limitations imposed on potential renters or purchasers of housing based on: arrest records; charges that did not result in a conviction; a criminal case that is not actively pending; or criminal justice records that have been sealed or expunged. Additionally, the bill prohibits landlords or any housing authority from requiring that an applicant disclose any information contained in sealed or expunged criminal records in connection with showing, selling, transferring, renting, leasing, or providing financial assistance or loans for any housing.

The bill precludes the use of information regarding the criminal history of a tenant or former tenant as evidence in a civil action against a landlord if the nature of that criminal history does not bear a direct relationship to the facts underlying the cause of action. Finally, the bill requires a landlord to provide applicants with access to any records that are used as the basis for denying a rental application.

State Revenue and Expenditures

The bill will result in a minimal workload increase and cash fund revenue from court filings in the Judicial Department, and a minimal workload increase only in the Department of Law, and the Department of Regulatory Agencies. New fiscal impacts are assumed to begin in FY 2018-19.

Judicial Department. By expanding the definition of unfair housing practices, trial courts may be called upon to review and rule on administrative actions taken against real estate professionals related to unfair housing practices. Courts may also experience a small increase in the number of civil actions brought by tenants against landlords and property owners, thereby minimally increasing workload, court revenue from filings (estimated at less than \$5,000 annually), and related state expenditures.

Department of Law. The department provides regulatory guidance and legal services to state agencies. The bill will minimally increase the amount of services the department provides to client agencies regarding enforcement of unfair housing practices and the regulation of real estate professionals.

DORA. State law provides for the administrative discipline for violations of state and federal fair housing laws. The department can anticipate a slight increase in the number of professionals accused of unfair housing practices and the administrative effort those accusations create.

TABOR Impact

The bill minimally increases state revenue subject to TABOR by less than \$5,000 annually beginning in FY 2018-19. State revenue is not currently expected to exceed the TABOR limit in the next two fiscal years, and no refund is required. Therefore, the bill is not expected to impact TABOR refunds in these years. However, refunds in future years when the state next collects a TABOR surplus will be increased.

Local Government

Similar to the state, to the extent that civil cases are filed, revenue, expenditures and workload of the Denver County Court, which is funded by the City and County of Denver, will also increase.

Statutory Public Entity

The bill will increase workload for the Colorado Housing and Finance Authority, as well as other local housing authorities, to update policies, and to modify documents used to communicate with real estate professionals and home buyers.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Law

Local Affairs

Judicial

Regulatory Agencies